Affordable Dwelling Unit Monitoring and Procedures Manual

City of Charlottesville, Virginia

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PART I – Introduction

The creation of an Affordable Dwelling Unit (ADU) ordinance was a recommendation of the Affordable Housing Plan, completed in 2021, which recommended new zoning tools to support Charlottesville's affordable housing needs through the creation and preservation of affordable housing units, i.e., moderately priced units, that the market would not otherwise build.

The specific tools of the Affordable Dwelling Unit ordinance, as incorporated in the Charlottesville Development Code, include:

1. **Affordable Dwelling Unit Requirement**: Requiring residential development that exercises the option to build 10 or more residential units to set-aside new Affordable Dwelling Units built to be priced affordably for households at designated Area Median Income (AMI) levels; and
2. **Affordable Dwelling Unit Bonus**: Offering incentives to residential development that includes affordable housing to set-aside new Affordable Dwelling Units built to be priced affordably for households at designated AMI levels, supported by a density bonus.

The Affordable Dwelling Unit ordinance is included in the Charlottesville Development Code and is linked here [hyperlink to be added].

This Manual sets forth the guidance, operational procedures, and implementation protocol governing the administration of the Affordable Dwelling Unit ordinance. In the event of any inconsistency between this Manual and the Charlottesville Development Code, the Development Code prevails.

To reflect evolving housing market conditions over time, the ADU ordinance and this Manual will be evaluated and updated by the City of Charlottesville Office of Community Solutions (OCS) every two years. The Charlottesville City Council will be provided an update on the program at this time and, as necessary, will consider changes to the manual and ordinance for adoption.

Capitalized terms used in this Manual are defined in the Appendix of this Manual.

PART II – Affordable Dwelling Unit Guidelines

2.1 Affordable Dwelling Unit Requirement

The City recognizes that increasing the number of ADUs and achieving deeper affordability in a housing development reduces the rental income of the project and changes the financing of the project. The development and operating costs for the project remain constant while the project receives less in revenue to cover those costs. To ensure that projects that include ADUs are financially feasible and get built, ordinance requirements are calibrated to market conditions. The feasible level of affordability for the ADU ordinance was determined based on locally-sourced data, including construction costs, land costs, operational costs, development type and size, location within the City, etc.

The applicability and requirements of the ADU ordinance are outlined in the Charlottesville Development Code.

The set-aside ADUs must be priced using the AMI levels, as defined by the U.S. Department of Housing and Urban Development (HUD), and applied based on the requirements set forth by the City of Charlottesville and detailed in the *Calculating Affordable Rents* section of this Manual.

2.3 Affordable Dwelling Unit Bonus

All projects providing residential units may choose to provide ADUs beyond what is required by the ADU ordinance. These projects are eligible for bonus incentives that further offset the cost burden of constructing and maintaining ADUs.

The requirements that must be met for projects to receive bonuses are outlined in the Charlottesville Development Code.

2.2 In-Lieu Fees

The option to pay in-lieu fees provides developers with an alternative to on-site construction of affordable dwelling units. An in-lieu fee is a payment equal to the cost of complying with the ADU ordinance, or the difference in projected revenue due to charging affordable versus market rate rent on ADUs. Developers may satisfy the ADU ordinance requirements by paying an in-lieu fee to the Charlottesville Affordable Housing Fund (CAHF).

A developer may build a portion of the required ADUs and provide a payment in lieu of the remainder of the required ADUs. The payment must be made before the issuance of a building permit. If a project is phased, then the in lieu payment(s) associated with affordable units required in each phase may be made before the issuance of a building permit for the given phase.

The in-lieu fee is equal to the average total cost per unit of developing a residential unit in the Charlottesville market.

The in-lieu fee per ADU that would otherwise be required is detailed in the charts below which outline the cost of a rental unit and a for-sale unit, respectively, based on number of bedrooms in the unit. Reassessment of in-lieu fees will be included in the update to the ADU ordinance and this Manual, scheduled to occur every two years.

Figure 1: Construction Cost Per Unit and Average Total Cost Per Unit In-lieu Fee

Number of Bedrooms	Cost Per Rental Unit	Cost Per Ownership Condominium Unit
Studio	$184,152	$324,510
1	$250,797	$362,120
2	$368,303	$413,709
3	$547,339	$483,138
Average Total Cost Per Unit In-lieu Fee	**$337,648**	**$395,869**

2.4 Standards

Term of Affordability

ADUs developed as a requirement of the Charlottesville Development Code must have a term of affordability of 99 years and be recorded as a deed restriction. Draft deed language must be provided to the City as part of the site plan review submittal.

The Zoning Administrator may allow a term of affordability of less than 99 years where it can be demonstrated that the ADU unit(s) being provided are part of an overall program in which the financial

returns associated with an ADU unit will be reinvested in the creation of new ADU units and a lower term of affordability is associated with the opportunity for long term wealth-building for the income-qualified household residing in the unit.

Determining the Affordable Rent or For Sale Unit Cost

The City bases its determination of maximum monthly rent for ADUs using the most recent US HUD guidance as published annually for Charlottesville based on bedroom count. If any discrepancies arise, the rent limits indicated by HUD will take precedence over other guidance and limits.

Figure 2: Maximum Monthly Rent Considered Affordable [Table to be updated]

Number of Bedrooms	30% AMI	50% AMI	60% AMI	80% AMI	Fair Market Rent
Studio	$551	$917	$1,101	$1,468	$1,024
1	$591	$983	$1,180	$1,572	$1,063
2	$708	$1,180	$1,416	$1887	$1,264
3	$818	$1,362	$1,635	$2,180	$1,562
4	$912	$1,520	$1,824	$2,432	$1,959

[1] Effective October 1, 2021.
[2] Assumes tenants pay no more than 30% of income in housing costs and utilities.
Source: U.S. Department of Housing and Urban Development (HUD)

The OCS will update maximum pricing for ADUs within one month of the release of updated income limits by HUD. The above table can be updated to reflect the new income limits set by HUD without City Council review or adoption.

If the tenant is responsible for the cost of utilities, the monthly utility allowance is deducted from the maximum monthly rent summarized above. Other mandatory fees charged for use of the property, such as for parking or other amenities, must also be deducted from the maximum monthly rent. Utility allowances for ADUs will be based on the Utility Allowance Schedule published by HUD. If any discrepancies arise between **Figure 3** and the utility allowance schedule published by HUD, the rent limits indicated by HUD will take precedence.

Current utility allowances through July 1, 2023, are provided below. The OCS will update utility pricing within one month of the release of the updated utility allowance schedule by HUD. The table below can be updated to reflect the new utility pricing set by HUD without City Council review or adoption.

Property Owners will be required to update utility data pricing within one month of the release of updated information published by HUD in the same calendar year.

Figure 3: Utility Allowance Schedule [Table to be updated]

		Bedroom Count				
Utility	Usage	0-BR	1-BR	2-BR	3-BR	4-BR
Appliance	Range/Microwave	$2	$2	$2	$2	$2
	Refrigerator	$3	$3	$3	$3	$3
Bottled Gas	Cooking	$11	$15	$19	$23	$29
	Home Heating	$61	$85	$109	$133	$169
	Water Heating	$27	$37	$48	$58	$74
Electricity	Cooking	$4	$5	$6	$8	$10

	Cooling (A/C)	$7	$9	$12	$14	$18
	Home Heating	$23	$32	$41	$51	$64
	Other Electric	$14	$19	$24	$30	$38
	Water Heating	$12	$16	$21	$25	$32
Natural Gas	Cooking	$2	$2	$3	$3	$4
	Home Heating	$8	$11	$14	$17	$21
	Water Heating	$3	$4	$5	$7	$8
Oil	Home Heating	$43	$60	$77	$95	$120
	Water Heating	$19	$26	$33	$41	$52
Sewer		$23	$32	$41	$50	$63
Trash Collection		$14	$14	$14	$14	$14
Water		$20	$28	$36	$44	$56

[1] Effective July 1, 2022 to July 1, 2023
Source: Virginia Housing

The City determines the maximum sale price of a for-sale ADU based on a calculation of the maximum monthly payment a household having a gross annual income at the required percent of AMI limit can make spending no more than 30% of their income. The maximum monthly payment must be inclusive of mortgage principal and interest, private mortgage insurance, property taxes condominium or homeowner's association fees, hazard insurance, and 1 parking space.

The allowance for determining the rental rate for ADUs in student housing projects is only available for projects that rent by the bedroom and are located within proximity of the University of Virginia. The Zoning Administrator has final authority to determine if a project is within proximity, that is, ½ mile, of the University with measurement being in a direct line from the edge of the main campus areas (central grounds and north grounds) to the edge of the subject parcel. Outlying University-owned parcels are not considered part of the campus for the purposes of this ordinance.

PART III – Permitting and Approvals

3.1 Affordable Dwelling Unit Certification

Projects are required to receive Affordable Dwelling Unit Certification to ensure compliance with the ADU ordinance throughout the development process. The certification process will be integrated with three existing steps in the development review process to streamline review:

- Site Plan Approval
  - Developer applies for and receives **Affordable Dwelling Unit Certification**
- Building Permit Issuance
  - Developer reconfirms information included in previously approved **Affordable Dwelling Unit Certification**
  - **Deed restriction** for affordability recorded in Charlottesville Land Records
  - **Developer submits any ADU in-lieu payments**
  - Developer submits **Marketing Plan** for ADUs included in project
- Certificate of Occupancy Issuance
  - Developer reconfirms information included in previously approved **Affordable Dwelling Unit Certification**

The project will be required to comply with the ADU ordinance at each step of the approvals process in order to receive the corresponding approval or permit. Each step of the approvals process is set forth in the remainder of this section.

3.2 Development Application and Site Plan Review

Any project with residential units is required to complete an Affordable Dwelling Unit Certification Application (Application), whether or not the project is subject to an Affordable Dwelling Unit requirement. The Affordable Dwelling Unit Certification Application is to be submitted in conjunction with development plans for Site Plan Review.

In the Application, the developer must provide information on planned ADUs for the project or planned in-lieu fee payment, based on the ADU ordinance requirements in the Charlottesville Development Code and this Manual. City OCS will review the Application to confirm all requirements are met, including the number of ADUs, level of affordability, and relevant unit characteristics. If the developer plans to provide an in-lieu fee payment, OCS will confirm that the total in-lieu fee amount meets the requirements of the Charlottesville Development Code and this Manual.

A developer must have an Affordable Dwelling Unit Certification from OCS prior to receiving Site Plan Approval.

3.3 Building Permit

When a developer applies for a building permit with the City, they will resubmit the project's Affordable Dwelling Unit Certification Application and note any changes from the Site Plan Approval. If changes are made, developers will provide details about the change. OCS will confirm that the project plans meet the ADU ordinance requirements prior to a building permit being issued.

Any required deed restrictions must be filed in the Charlottesville Land Records prior to obtaining a building permit.

Developers who choose to make an in-lieu fee payment instead of providing ADUs on-site, must submit the payment to the Charlottesville Affordable Housing Fund (CAHF) prior to obtaining a building permit.

A developer must submit a Marketing Plan [hyperlink to be added] to City of Charlottesville OCS at least 6 months prior to construction completion to gain approval to begin leasing prior to building completion. The Marketing Plan should include the developer's strategy for connecting prospective tenants to the project's ADUs and processes for screening prospective tenants. The Marketing Plan must state clearly that the developer will not discriminate on the basis of income source, and that any resident with a Housing Choice Voucher or other type of voucher is welcome to apply. If a project has already been exempted from providing ADUs during the Site Plan Approval stage, the developer is not required to resubmit an Affordable Dwelling Unit Certification Application unless the project has changed so that it is now required it to meet ADU requirements.

3.4 Certificate of Occupancy

Before the final Certificate of Occupancy is issued, OCS must conduct an onsite review to confirm that the ADUs are consistent with the requirements of the ordinance.

PART IV – Tenant Selection & Protections

4.1 Administration of Tenant Selection

Developers will be responsible for administering the tenant selection process for ADUs, including the marketing, screening, and recertification of tenants. A developer may choose to contract marketing, tenant screening, and tenant approval of ADUs to a third-party company. All fees incurred from third-party support will be the responsibility of the developer. Developers must identify any planned third-party support within their Marketing Plan submitted as part of Affordable Dwelling Unit Certification during the development approvals process.

Regardless of status, developers and property owners remain liable for non-compliance and subject to remedial actions.

4.2 Tenant Qualification Criteria

Income Limits

To determine income-eligible households, the City will use the most recent household income limits as published annually by HUD based on household size. Income limit area definitions are typically updated annually by HUD each April. City OCS will update income limits for tenants eligible for ADUs within one month of the release of updated income limit and utility allowances by HUD (typically June).

Income Limits for ADUs will be based on the income limits published by HUD. If any discrepancies arise between **Figure 4** and the income limits published by HUD, the rent limits indicated by HUD will take precedence. Figures 4 and 5 below can be updated to reflect the new Charlottesville area median income limits and Charlottesville housing choice voucher payment standards set by HUD without City Council review or adoption.

Figure 4: City of Charlottesville Area Median Income Limits (2022) **[Table to be updated]**

	Household Size			
Income Level	**1**	**2**	**3**	**4**
30% AMI	$19,680	$22,500	$25,320	$28,110
50% AMI	$32,800	$37,500	$42,200	$46,850
60% AMI	$39,360	$45,000	$50,640	$56,220
80% AMI	$52,480	$60,000	$67,520	$74,960
100% AMI	$65,590	$74,960	$84,330	$93,700

Source: HUD

Property Owners may not refuse to accept rental subsidies from prospective tenants. Rental subsidies include, but are not limited to, Housing Choice Vouchers, Tenant Protection Vouchers, or locally administered vouchers.

For ADUs occupied by a Housing Choice Voucher Holder, Property Owners will be entitled to current Fair Market Rent, though the tenant will be responsible only for the determined share of rent based on their income. Property Owners must provide OCS with a copy of the executed Request for Tenancy Approval (RTA) form within 7 days of lease signing.

Figure 5: City of Charlottesville Housing Choice Voucher Payment Standard (2022)

Dwelling Unit Size				
Studio	1-bed	2-bed	3-bed	4-Bed
$1,228	$1,275	$1,516	$1,874	$2,350

Source: HUD

Determining Household Income

Household incomes for ADU applicants must be determined in accordance with the *Internal Revenue Code Section 42, Low-Income Housing Credit* Guide and 24 CFR 5.609.

Annual compliance documentation will be based on the applicant's income from the past year. Assumptions about bonuses, overtime, or other speculative projections of income will be based on what was earned in the previous year, unless clear documentation is presented to confirm a variation.

The Property Owner is permitted to deduct projected losses in income from the previous year when major changes in "Life Circumstances" occur since the applicant's last year of employment. Life circumstance changes include retirement, job loss, or disability or death of a wage earner. Supporting documentation must be submitted to City OCS.

4.3 Tenant Requirements

Upon the execution of the lease between the tenant and Property Owner, tenants must comply with the following terms, in addition to terms highlighted in the agreed-upon lease. Tenants who fail to comply with the provisions may be subjected to termination of the ADU lease and eviction.

- **Occupancy:** All members of the household that applied must move into the ADU within 60 days of the start of the lease and occupy the ADU as their Primary Residence for at least 10 out of 12 months of each calendar year.
- **Subletting:** Renters may not sublet any part of the ADU to anyone who is not a part of the household at any time. ADUs cannot be subleased for long-term or short-term vacation rentals at any time. There is also no renting or subletting of a parking space or any other space (if provided with the unit).
- **Household Changes:** A Property Owner must not allow any changes to a lease for an ADU within the first 12 months of the lease, except in following situations:
  - Death of lessee
  - Dissolution of marriage or domestic partnership within the household
- **Unit Maintenance:** Renters are responsible for making sure that their ADU is not damaged and maintaining the ADU in compliance with the terms of their lease. Property Owners are responsible for maintaining the ADU in the same manner that they maintain their market-rate units.
- **Annual Recertification:** Each year, renters must provide household income documentation and other applicable household information to the Property Owner. Renters who fail to timely provide the required documentation are in violation of the ADU ordinance and will not have their lease renewed. Additional requirements for recertification are set forth in the *Annual Recertification of Tenant Qualification* section of this Manual.

Each new household must submit a new application for an ADU and meet the current qualification standards. If a household adds or removes anyone within the first 12 months, the new household income must be at or below the limit that was applicable at the time the continuing members of the household initially applied. After the first 12 months, if the household composition changes, the new household income must remain at or below the allowable recertification limits.

4.4 Annual Recertification of Tenant Qualification

Prior to the lease renewal of an ADU, the Property Owner must recertify with the tenant that their household meets the eligibility and household size requirements. The same verification process and documentation will occur as with the initial lease of the ADU. Unless the Property Owner can substantiate to City OCS its claims that the tenant has violated terms of the lease or is refusing to adequately comply with the recertification process, no other households may be considered to lease the ADU unless the current tenant chooses not to renew their lease.

After the first 12 months of occupying an ADU, the gross household income may increase up to a maximum 100% of AMI, adjusted for household size. If upon recertification the household's income exceeds 100% of AMI, the household must vacate the ADU within 90 calendar days.

The Property Owner must collect and compile the necessary recertification documentation. The Property Owner must maintain records of the recertification process and submit documentation to the City of Charlottesville OCS as set forth in the *Annual Monitoring* section of this Manual.

Housing Choice Voucher holders must be recertified by the third-party contractors managing tenant selection for voucher priority units. All rules applying to Voucher holders as part of the HCV program will still apply to Voucher holders occupying ADUs.

4.5 Rent Increases

Property Owners are allowed to increase rents for ADUs no more than once in a 12-month period up to the Maximum Allowable Rent, as identified in **Figure 2**. Property Owners must not increase rent for an ADU more than that allowable by the annual change in the AMI, as identified by HUD and published by the City NDS and OCS. Property Owners must follow all applicable federal, state, and local laws when increasing rent.

4.6 Tenant Protections

The marketing and applicant screening of ADUs must comply with all applicable federal, state, and local laws related to Fair Housing and must not exclude or discriminate against any persons on the basis of religion, race, national origin, sex or gender identity, sexual orientation, health or disability status, familial status, English proficiency, and lawful sources of income. Additionally, the marketing and applicant screening of ADUs must not exclude or discriminate against any person on the basis of citizenship.

Property Owners are required to use good faith efforts in marketing, tenant selection, recertification, and other administrative processes to engage income-qualified households including Black, Indigenous, and People of Color, as well as other community members, to benefit from affordable housing assistance. This includes, but is not limited to, engagement and outreach members of underserved groups identified by the Charlottesville Affordable Housing Plan.

Part V – Monitoring and Enforcement

5.1 Annual Monitoring

To determine compliance with the ADU ordinance, Property Owners are required to provide information and documentation deemed necessary by OCS annually by July 1st of each calendar year including the Charlottesville Affordable Dwelling Unit Compliance Form [hyperlink to be added].

OCS will oversee the monitoring of compliance and review all documentation submitted for ADUs. At its discretion, OCS and other City departments may require additional documentation related to ADU compliance.

The City reserves the right to inspect ADUs to ensure that the maintenance of ADUs meets acceptable standards of health and safety, and that the ADUs remain comparable with market-rate units in the same project.

5.2 Noncompliance / Violations

Without limitation on any other rights of the City, in the event there is a violation of any conditions contained within the ADU ordinance or this Manual, the City may take any one or combination of the steps identified below to ensure compliance.

Development Approvals

During planning and construction of a project, developers found to be noncompliant with the terms of the ADU ordinance or this Manual may be subjected to the revocation of the Project's Affordable Dwelling Unit Certification, or withholding of Site Plan Approval, Building Permit, Certificate of Occupancy, or other development approvals required to allow construction or occupation of a project.

In any instance of non-compliance, the developer will have 15 days to comply and provide documentation to the City before penalties are applied. No additional permits, certifications, or approvals will be provided until OCS has determined that the project complies the ADU ordinance or this Manual. In addition to other remedies, the City can enforce these requirements in the Courts of the City of Charlottesville.

Operations

Upon the completion of a new project and issuance of a Certificate of Occupancy, Property Owners may be found noncompliant with the ADU ordinance or this Manual under the following conditions:

- Renting an ADU to an ineligible tenant, or renting a Housing Choice Voucher priority unit to an ineligible tenant without approval from OCS;
- Charging an incorrect rental amount, including utility allowances;
- Failure to maintain an ADU or Housing Choice Voucher priority unit to acceptable levels of health and safety and comparable with market-rate units in the same project.

Noncompliance will result in the imposition of fines and penalties on the Property Owner as described in Section 6.4 Enforcement in the Charlottesville Development Code.

APPPENDIX: Definitions

AFFORDABLE DWELLING UNIT – Residential unit which is restricted for occupancy by households that have a combined total annual income for all members that does not exceed a designated Area Median Income (AMI) as defined by HUD. Occupant(s) must pay no more than 30 percent of their income for gross housing costs, inclusive of utilities. This term refers to the broad classification of moderately priced housing and should not be confused with more specific terms that define different income divisions.

AFFORDABLE DWELLING UNIT CERTIFICATION – An Affordable Dwelling Unit Certification ("Certification") is required for all projects with residential development to ensure they include Affordable Dwelling Units as required by the Charlottesville Development Code. Applications for Certification must be submitted to City OCS as part of their initial development application to the City and no development approvals will be provided or granted without Certification.

AREA MEDIAN INCOME (AMI) – Median income, by household size, for the City of Charlottesville, as adopted by the U.S. Department of Housing and Urban Development (HUD) and defined in the Charlottesville HUD Metro Fair-Market Rent Area (HMFA).

AVERAGE GROSS FLOOR AREA PER DWELLING UNIT –The gross floor area of the principal building or buildings divided by the total number of housing units in the building(s).

CHARLOTTESVILLE AFFORDABLE HOUSING FUND (CAHF) – A locally-designated and controlled fund to pay for affordable housing development and programs.

COST BURDEN – Under a standard set by HUD, a household is considered cost-burdened when it spends 30% or more of its income on gross housing costs, whether for rental or ownership housing.

DEED RESTRICTION – Legal conditions attached to the ownership of land which dictate requirements imposed on the land; with regard to Affordable Dwelling Unit requirements, these requirements pertain to developing and maintaining Affordable Dwelling Units.

DEVELOPER – Owner or person managing the development of a Project.

EXEMPTIONS – An agreement allowing a Project to opt out of providing Affordable Dwelling Units due to defined proper characteristics (e.g., Project size, location, or grandfathering status).

HOUSING CHOICE VOUCHER (SECTION 8 VOUCHER) PROGRAM – Federal government housing assistance program which allows for low-income families, the elderly, and the disabled to afford decent and safe rental housing. Participants in the tenant-based voucher program are issued a rental voucher, which can be used in the private market for rental assistance.

IN-LIEU FEE – Fee paid by developers in place of providing Affordable Dwelling Units on-site as part of a project. Funds generated by the in-lieu fee are put into the Charlottesville Affordable Housing Fund to support affordable housing programs and development throughout the City. The price of in-lieu fees charged to a developer are based on the number of bedrooms in required units and if the unit is to be rented or sold.

INCOME LIMITS – The maximum amount of income a household can earn to qualify for an Affordable Dwelling Unit.

MARKETING PLAN – Document detailing a developer's strategy for attracting and screening prospective tenants to the Project's Affordable Dwelling Units.

NEIGHBORHOOD DEVELOPMENT SERVICES (NDS) – City department which oversees planning and zoning in Charlottesville, including the Charlottesville Development Code requirements.

OFFICE OF COMMUNITY SOLUTIONS (OCS) – City agency overseeing the design and implementation of housing programs and enforcement of the City's housing code. Office of Community Solutions oversees the administration and compliance with the Affordable Dwelling Unit ordinance, including reviewing proposed Projects, issuing Affordable Dwelling Unit Certifications, and ensuring operational compliance with the Affordable Dwelling Unit ordinance and Manual, among other tasks.

PROJECT – Multifamily building or development which may be subject to providing ADUs, based on requirements and guidelines established in the Charlottesville Development Code and in this Manual.

PROPERTY OWNER – Person or entity who holds the legal title (ex: deed) for the building or land containing a Project.

RENT LIMIT – The maximum monthly rent that can be charged for an Affordable Dwelling Unit.

SUBSIDIZED HOUSING – Affordable rental and ownership housing developed or operated by non-profit and for-profit developers using public subsidies.

UTILITY ALLOWANCE – A monthly allowance for utilities and services (excluding telephone services) if tenants are responsible for paying utilities. For properties in which tenants are responsible for paying utilities, the utility allowance will be deducted from the maximum rent to determine the monthly rent limit.